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April 19, 2017

BY ECF

Honorable Cheryl L. Pollak
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Nchewi Akpoke v. City of New York, et al.
15-CV-6960 (ILG)(CLP)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendants City of New York, Officer Hesterhagen, Officer Golat, and Sergeant Dicecco. In that capacity, I write to update the Court as to the status of the case in advance of April 25, 2017 Status Conference.

By way of background, plaintiff alleges *inter alia* that on July 2, 2015, he was subjected to excessive force. On March 13, 2017, the Court ordered the “parties to stip to email from plaintiff’s counsel with electronic information as an email from him.” See Civil Docket Sheet, at Document Number 45. Since that time, plaintiff’s counsel has refused to sign such a stipulation. Defendants intend to address this non-compliance with the Court on April 25, 2017.

On March 22, 2017, the undersigned sent plaintiff’s counsel, Ryan Lozar, Esq., a proposed stipulation that read, in relevant part:

The parties hereby stipulate that the DVD “Akpoke Email 15-CV-6960” is a fair and accurate copy of the email, including the two attachments “IMAG0046.jpg” and “IMAG0047.jpg”, which was sent by plaintiff’s counsel, Ryan Lozar, Esq. to defendants’ counsel, Senior Counsel Evan Brustein, on March 15, 2016.

The parties hereby stipulate that the electronic data contained on the DVD “Akpoke Email 15-CV-6960,” including the two attachments “IMAG0046.jpg” and

“IMAG0047.jpg” is in the same condition as when Mr. Lozar first emailed it to Mr. Brustein on March 15, 2016.

On April 1, 2017, Mr. Lozar objected to the stipulation because it referenced the “our conversation” and because Mr. Lozar is “not an expert in digital forensics.” Mr. Lozar proposed a counter-stipulation which removed any reference to the email or the electronic information. On April 3, 2017, the undersigned emailed Mr. Lozar and reminded him of the Court’s specific order and advised him that if he refused to sign the stipulation as drafted that I would seek Court intervention. To date, Mr. Lozar has not responded.

Thank you for your consideration.

Respectfully submitted,

/s/

Evan Brustein
Senior Counsel
Special Federal Litigation Division

cc: Ryan Lozar, Esq. (By ECF)
Attorney for Plaintiff